

# EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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LONTEX CORPORATION,  
Plaintiff,

v.

NIKE, INC.,  
Defendant.

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Civil Action No.: 18-cv-5623

(Hon. Michael M. Baylson)

**DECLARATION OF KEITH DUGGER**

I, Keith Dugger, declare under penalty of perjury that the following is true and correct:

1. I am the Head Athletic Trainer for the Colorado Rockies Baseball Club, Ltd. (the “Colorado Rockies”). I have held this position since 2004 and have been with the Colorado Rockies in other roles since 1992.
2. The Colorado Rockies are a Denver, Colorado based professional baseball club and member club of Major League Baseball.
3. The Colorado Rockies’ athletic training staff, which is comprised of myself and Scott Gehret, Assistant Athletic Trainer, is responsible for health of the club’s professional baseball players.
4. The Colorado Rockies’ athletic training staff purchases a variety of sports medicine products to manage and prevent injuries to the club’s players.
5. The Colorado Rockies’ athletic training staff has been regularly purchasing specialized compression garments, including compression sleeves, compression shirts, compression shorts, and compression tights, from Lontex Corporation (“Lontex”) since approximately 2006.

6. The Colorado Rockies' athletic training staff has purchased compression garments direct from Lontex through orders placed over the telephone and through orders on Lontex's [www.sweatitout.com](http://www.sweatitout.com) website. The Colorado Rockies' athletic training staff has, on occasion, purchased compression garments direct from Lontex when the baseball club is in the Philadelphia, Pennsylvania area for a game.

7. The Colorado Rockies' athletic training staff purchases Lontex compression garments as needed by the players, but also maintains some stockpiles located at the club's Coors Field home facility in Denver, Colorado and at its Salt River Fields at Talking Stick spring training facility in Scottsdale, Arizona.

8. The Lontex compression garments currently in the Colorado Rockies' stockpiles all include a "SWEAT IT OUT" logo on the outside of the garment. Some of these garments include a content/care label sewn inside the garment that says "SWEAT IT OUT®." Attached as **Exhibit 1** are photographs of some Lontex compression garments currently in the stockpile at Coors Field that have a "SWEAT IT OUT" logo on the outside of the garment and a "SWEAT IT OUT®" content/care label sewn inside the garment. Other of these garments include a content/care label sewn inside the garment that says "COOL COMPRESSION®." Attached as **Exhibit 2** are photographs of some Lontex compression garments currently in the stockpile at Coors Field that have a "SWEAT IT OUT" logo on the outside of the garment and a "COOL COMPRESSION®" content/care label sewn inside the garment.

9. I am not able to assign a date of purchase for any of the individual Lontex compression garments in the Colorado Rockies' current stockpiles.

10. To the best of my recollection, near the end of February, 2020, Mr. Efraim Nathan called me requesting that I photograph the Lontex compression garments in the Colorado Rockies'

stockpiles that have a "COOL COMPRESSION®" content/care label sewn inside the garment and send him those photographs by e-mail.

11. On or around March 3, 2020, I e-mailed to Mr. Nathan photographs of the Lontex compression garments that have a "COOL COMPRESSION®" content/care label sewn inside the garment. I also photographed Lontex compression garments that have a "SWEAT IT OUT®" content/care label sewn inside the garment but I did not e-mail those photographs to Mr. Nathan.

12. The Colorado Rockies' athletic training staff rarely purchases compression garments from manufacturers other than Lontex and, during my tenure, has not purchased any compression garments from NIKE, Inc. ("NIKE").

13. The Colorado Rockies' Clubhouse Manager is responsible for purchasing from NIKE baseball uniforms, equipment, and athletic apparel for the club's players.

14. I am not familiar with the NIKE products that Lontex claims infringe its rights in "COOL COMPRESSION."

15. I have never mistakenly believed that Lontex authorized NIKE to use its "COOL COMPRESSION" technology.

16. I have never mistakenly believed that there was any affiliation or relationship between Lontex and NIKE.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 1, 2020 at Denver, Colorado.

  
Keith Dugger

# **Exhibit 01**







# **Exhibit 02**





RV 35612  
**COOL COMPRESSION®**  
1-800-343-8960  
[www.sweatitout.com](http://www.sweatitout.com)  
Machine Wash Cold  
Tumble Dry Warm  
Do Not Bleach  
Do Not Iron  
Made In USA  
70% Coolmax®  
30% Lycra®  
**X-LARGE**



